IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 18549 of 2004

Between:

1.P. Rangaraju S/o Kondaraju
R/o Bhimavaram West Godavari District
2.P. Srinivasaraju S/o Kondaraju
R/o Bhimavaram West Godavari District
3.D. Sambamurthy Raju S/o Late Surapraju
R/o Bhimavaram West Godavari District

..... PETITIONERS

AND

Additional Asst Engineer (Operation) A.P. Eastern Power Distribution Co. Ltd.,
Nidamarru West Godavari District

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus directing the respondent to restore the service connections of power supply of the petitioners by declaring that the action of the respondent vide his notice Lr.No.AAE/O/NDMR/P dated 19-8-2004 and disconnecting the power supply of petitioners is highly arbitrary illegal, violative of principles of natural justice discriminatory violative ofart 14, 21 and 300A of Constitution of India.

Counsel for the Petitioner: MR.C.RAMACHANDRA RAJU

Counsel for the Respondent: SMT.M.VINOBHA DEVI

The Court at the admission stage made the following:

ORDER:

Heard the learned counsel for the petitioners and the learned Standing Counsel appearing for the respondent.

Petitioners state that they obtained service connections of power supply bearing S.C.Nos.62, 64 and 78 of Bynepalli and Service Connection No.198 of Tokalapalli, Nidamarru Mandal of West Godavari District. They state that they have been regularly paying the energy consumption charges and there is absolutely no default at any point of time. While so, the impugned proceedings dated 19.08.2004 issued by the respondent has been served on the petitioners, in which it is stated that as per the proceedings of the District Collector, West Godavari in R.C.No.D6/11717/96, dated 08.08.1999, the land of the petitioners form part of Contour +5' MSL as per the map of the Principal Chief Conservator of Forests, Andhra Pradesh and that it also falls within the bird Sanctuary of Kolleru and therefore, the electrical service connections of the petitioners will be disconnected after one week from the date of the said notice. The petitioners deny all the allegations made in the said notice and state that the land in question is their own land. It is also contended that the unilateral decision of the respondent under the impugned notice to disconnect the power supply to the service connections of the petitioners without affording any opportunity to rebut the allegations made therein, is arbitrary and illegal, apart from being without jurisdiction.

A reading of the impugned notice shows that the petitioners were not issued any prior notice to rebut the allegations that the land in question forms part of Bird Sanctuary of Kolleru. It is also the specific plea of the petitioners that the proceedings of the District Collector, West Godavari District, dated 08.08.1999 were not served on them and in the absence of the same, they cannot effectively explain the allegations in the impugned notice.

In the circumstances, I am of the view that it would be appropriate to afford an opportunity to the petitioners to meet the allegations made in the impugned notice.

Accordingly, the writ petition is disposed of setting aside the impugned notice with a direction to the respondent to furnish a copy of the proceedings of the District Collector, West Godavari District, Eluru in R.C.No.D6/11717/96, dated 08.08.1999, within one week from today. On receipt of the said proceedings, it is open to the petitioners to submit their explanation to the respondent treating the impugned notice as show-cause notice within one week thereafter. If such explanation is received within the time specified above, the respondent shall consider the same and pass appropriate orders in accordance with law.

There shall be a further direction to the respondent to restore the power supply to the Service Connection No.62 of Bynepalli and Service Connection No.198 of Tokalapalli, Nidamarru Mandal, West Godavari District belonging to the first petitioner, and Service Connection Nos.64 and 78 of Bynepalli, Nidamarru Mandal, West Godavari District belonging to the second and third petitioners forthwith.

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11.10.2004

VGB

To

1. Additional Asst Engineer (Operation) A.P. Eastern Power Distribution Co.

Ltd., Nidamarru West Godavari District

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